

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 98-0783P

Gross Income Tax

Fiscal Years Ending 07/01/94, 06/30/95, and 06/28/96

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ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer, incorporated in Delaware on November 10, 1969 was audited for fiscal years 1994 through 1996. Upon audit it was discovered that the taxpayer failed to correctly report gross income at the high rate of the return for rental income from Indiana property in all years of the audit and to report the gross proceeds from the sale of Indiana assets at the high rate. In addition to the gross income adjustments, taxpayer failed to correctly reflect adjusted gross income, failed to add back property tax, failed to reflect the correct net operating loss carryovers, and erred on its apportionment factors.

Taxpayer maintains its corporate headquarters in California and has a small sales office in Indianapolis. It designs, manufactures and markets medical care equipment including beds, furniture, bathing and lifting equipment and support surfaces. Products are sold and rented to nursing homes, sub-acute facilities and hospitals. Products are marketed through a network of sales personnel throughout the United States.

Taxpayer requests that the department waive the negligence penalty.

I. **Tax Administration** – Penalty

DISCUSSION

Taxpayer was assessed a negligence penalty because it failed to report gross income correctly for fiscal years 1994 through 1996. Taxpayer also made errors in its adjusted gross income, apportionment factors, property tax add backs,, and net operating loss carryovers.

Taxpayer, in a letter dated March 3, 1998 protested penalties assessed and states that the underpayment of tax was not intentional and they have made every effort to fully comply with the tax filing requirements of the State of Indiana. In addition, it cooperated fully and provided requested information timely during the recent audit.

Taxpayer has not provided reasonable cause to allow the department to waive its negligence penalty. The department finds the errors were made due to carelessness and lack of proper review.

FINDING

Taxpayer's protest is denied.